

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ALAMO FIREWORKS, INC.,

Plaintiff,

V.

LANDSTAR RANGER, INC.,

Defendant.

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CIVIL ACTION NO. SA-23-CA-00116-FB

**ORDER REGARDING REPORT AND RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE and FURTHER ORDERS OF THE COURT**

Before the Court are the Report and Recommendation of United States Magistrate Judge (docket no. 30) recommending that this case be dismissed as preempted by the Carmack Amendment, along with Plaintiff's written objections (docket no. 33) [including a motion for reconsideration and alternative motion for leave to amend (docket no. 32)] thereto, Defendant's response (docket no. 34) and Plaintiff's reply (docket no. 35) to Defendant's response.

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of the Report and Recommendation. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Report and Recommendation and determine whether it is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989).

On the other hand, any Report and Recommendation to which objection is made requires de novo review by the Court. Such a review means that the Court will examine the entire record, and will make an independent assessment of the law. The Court need not, however, conduct a de novo review

when the objections are frivolous, conclusive, or general in nature. *Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987). After careful consideration, the Court concludes any objections to the substantive findings in the R&R lack merit and that Plaintiff should be granted leave to amend its complaint to assert a claim under the Carmack Amendment.

IT IS THEREFORE ORDERED that the Report and Recommendation of United States Magistrate Judge (docket no. 30) is ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that Defendant's second-in-time Motion for Summary Judgment (docket no. 27) is GRANTED and Defendant's first-in-time Motion for Summary Judgment (docket no. 26) is DENIED as MOOT.

IT IS FURTHER ORDERED that Plaintiff's Motion for Reconsideration of the Magistrate Judge's January 17, 2025 Report and Recommendation Dismissing all of Plaintiff's Claims and Alternative Motion for Leave to File First Amended Complaint (contained within docket no. 32) is GRANTED in the alternative such that Alamo Fireworks, Inc.'s First Amended Complaint (attached to the motion for leave at docket no. 32-1) shall be filed as part of the record in these proceedings.

IT IS FINALLY ORDERED that this case is RE-REFERRED to United States Magistrate Judge Henry J. Bemporad for further proceedings under the same terms and conditions as the original Order of Referral (docket no. 5).

It is so ORDERED.

SIGNED this 25th day of February, 2025.



FRED BIERY
UNITED STATES DISTRICT JUDGE